IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 120 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

SHRENIK KASTURBHAI HUF

Appearance:

1. WEALTH TAX REFERENCE No. 120 of 1995
MR BB NAIK with MR MANISH R BHATT for Petitioner
MR MANISH J SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 08/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the Income-tax Appellate Tribunal, Ahmedabad has referred the following question under Section 27(1) of the Wealth-tax Act, 1957 for our opinion in respect of assessment years 1984-85 and 1985-86 :-

> Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the provisions of sec. 7(4) apply to the residential property occupied by the servants of the assessee ?"

2. We have heard Mr BB Naik, learned counsel for the revenue and Mr Manish J Shah, learned counsel for the respondent-assessee.

3. Our attention is invited to the decision dated 18.10.1995 of this Court in Wealth-tax Reference No. 34 of 1992 wherein an identical question was referred in the case of this very assessee for assessment year 1982-83. After hearing the learned counsel for the parties at length in that reference, this Court held that the questions was required to be answered in favour of the assessee and against the revenue.

4. Following the aforesaid decision, our answer to the question is in the affirmative i.e. in favour of the assessee and against the revenue.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-